



Statement of T. Scott Cowperthwait

Vice President Law – Privacy and Cybersecurity, Charter Communications

Before the Senate Standing Committee on Consumer Protection and Internet & Technology

“Protecting Consumer Data and Privacy on Online Platforms”

Good afternoon, Chairman Thomas and Chairwoman Savino, and distinguished Members of the Committees. Thank you for the opportunity to appear today.

I am Scott Cowperthwait, Vice President, Law – Privacy and Cybersecurity at Charter Communications. I lead the legal privacy and cybersecurity team that advises the business on data privacy and cybersecurity issues, including assisting with the implementation of privacy and cybersecurity policies and measures across all of Charter’s businesses.

Charter values and relies on the trust and loyalty of its more than 26 million residential and business customers, millions of whom are in New York. Our network provides competitively priced high-speed broadband, video and voice services to neighborhoods of all types, from large cities to small towns and rural areas, from Fortune 100 customers to small businesses across the country. In New York, Charter serves over 1,100 local municipalities, including some of the state’s largest cities, and we are the leading broadband internet service provider in the State.

Ensuring that the privacy of our customers is protected is very important to us and Charter appreciates the Committees holding this hearing to focus on these issues. We also appreciate the developing dialogue among businesses and consumer groups, think tanks and others who have begun to examine potential approaches to protecting the privacy and security of consumers' personal information online.

Consumers Need a Comprehensive Online Privacy Framework

As you know, continuing advances in technology are changing the online privacy landscape. Despite Americans' daily reliance on websites, apps, and social media, it can be difficult for consumers to understand and appreciate how companies are collecting, analyzing, using and selling information about them.

An increasingly critical aspect of ensuring that consumers will continue to use our services and the multitude of offerings on the internet is making sure they have confidence that their online personal information is protected. While Charter strives to give our customers confidence with our current policies and practices, we recognize that there is still more to do.

As our Chairman and CEO Tom Rutledge has said, different policies that lead to inconsistent protections sow confusion and erode consumers' confidence in their interactions online; this is bad for business and bad for consumers since it threatens the internet's future as an engine of economic growth. That is why last year he called for the creation of a new comprehensive

federal privacy framework based on opt-in consent to give consumers better tools to control their information online. Importantly, for such a framework to be effective it must be applied consistently across the entire internet ecosystem. From a consumer standpoint, they want their online data protected whether they are using an ISP like Charter, a search engine, an e-commerce site, a streaming service, a social network, or a mobile carrier or device.

A comprehensive privacy framework should seek to empower and inform consumers through rules that address five core principles – control, transparency, uniformity, parity and security. We believe a federal solution would best accomplish these objectives by ensuring consumers are protected by a nationally consistent framework across the online ecosystem regardless of where they live or work.

We recognize that other states, not only New York, are seriously considering enacting their own state-level privacy regimes. As you consider legislation, we respectfully urge you to approach it from a similar place we do – based on the principles of transparency and consumer control. Such an approach enables consumers to decide how their data is used and at the same time allows companies to innovate.

Five Principles for Protecting Consumers Online

I would now like to address the five core principles that are critical to an effective privacy framework.

The first principle is control. Consumers should be empowered to have meaningful choice regarding the collection and use of their data. The best way to ensure consumer control over their data is through opt-in consent. Any legal framework that is ultimately adopted should ensure consumer consent is purposeful, clear and meaningful. Additionally, consent should be renewed with reasonable frequency and any use of personal data should be reasonably limited to what the consumer understood at the time consent was provided. While we believe that an opt-in consent provides consumers with the greatest control of their data, we recognize that there are other ways for consumers to exercise control over their data, and we are willing to work with stakeholders to find a common ground solution.

The second principle is transparency. Consumers should be given the information they need to provide informed consent. Explanations about how companies collect, use and maintain consumers' data should be clear, concise, easy-to-understand and readily available. Privacy policies also should be separate from other terms and conditions of service. If all online companies provide this type of transparency, consumers will have a greater ability to weigh the potential benefits and harms of the collection and use of their personal data.

The third principle is parity. Consumers are best served by a uniform framework that is applied consistently across the entire internet ecosystem not based on who is collecting it, or what type of service is being offered. Consumer data should be protected equally whether they are using

an ISP like Charter, a search engine, an e-commerce site, a streaming service, a social network, or a mobile carrier or device.

The fourth principle is uniformity. As I mentioned earlier in my testimony, for online consumer protections to be effective there should be a single national standard. A patchwork of state laws would be confusing for consumers, difficult for businesses to implement, and hinder continued innovation. Yet, Charter realizes that in the absence of a uniform, federal solution, states may be likely to act on their own. In doing so, it will be critical that the states understand what each of the others is doing so as to avoid an inconsistent or worse, contradictory, set of online protections. A system filled with inconsistency or contradictions will not serve consumers, and will stifle technological innovation.

The final principle is security. At Charter we believe privacy is security and security is privacy. Strong data security practices should include administrative, technical, and physical safeguards to protect against unauthorized access to personal data, and ensure that these safeguards keep pace with technological development.

We also believe that regulatory or agency enforcement is the appropriate mechanism to ensure online data privacy. Agencies of the state, who have individuals who are subject matter experts, and who know how to investigate and implement existing rules, laws and regulations, offer the most cost-effective manner to enforce online privacy laws.

We understand that some advocates support an expansion of private rights of action against companies who may breach privacy laws. Instituting a private right of action benefits the plaintiff's bar more than consumers and does not actually result in the implementation or development of new or revised safeguards for data. Costly litigation creates greater uncertainty and may have the effect of stifling technological developments and service improvements.

Conclusion

We are now engaged in a long-overdue public conversation about what happens to data online and the vulnerabilities that develop when online data goes unprotected. Consumers today and in the future deserve to have the ability to control how their information is collected and used whenever they use the internet, and wherever they go online. Charter looks forward to the opportunity to work with Members of the Committees here today, industry partners, consumer groups and other stakeholders in this process.

I thank the Members of the Committees for the opportunity to appear before you today on this important issue, and I would be happy to answer any questions you might have.